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**UNITED STATES DISTRICT COURT FOR
THE NORTHERN DISTRICT OF CALIFORNIA**

ROHNERT PARK CITIZENS TO
ENFORCE CEQA, and DOES 1 through 5,
inclusive,
Plaintiff,

CASE NO. C 007-4607 TEH

v.

**DECLARATION OF ROSE M. ZOIA
IN SUPPORT OF OPPOSITION TO
DEFENDANT CALTRANS' MOTION
TO DISMISS**

CALIFORNIA DEPARTMENT OF
TRANSPORTATION, UNITED STATES
DEPARTMENT OF TRANSPORTATION,
FEDERAL HIGHWAY ADMINISTRATION,
and DOES 6 through 10, inclusive,

Defendants.

Date: June 2, 2008

Time: 10:00 a.m.

Ctrm: 12, Hon. Thelton E. Henderson

I, Rose M. Zoia, declare:

1. I am an attorney licensed to practice in the state of California and counsel
for Plaintiff Rohnert Park Citizens to Enforce CEQA.

Declaration in Support of
Opposition to Motion to Dismiss

1 2. In July 2004, Caltrans and the federal defendants released a joint Initial
2 Study(CEQA)/Environmental Assessment (NEPA) (IS/EA). The IS/EA did not
3 discuss the Graton Rancheria Casino and Hotel Project, an approximately 762,000
4 square foot gaming and entertainment facility within one mile from the proposed
5 project initiated by the Federated Indians of Graton Rancheria to be developed and
6 managed by Station Casinos, Inc. A second joint IS/EA, issued in June 2005, also
7 did not discuss the casino.
8

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10 3. In November 2006, Caltrans and the federal defendants published a joint
11 “Negative Declaration/Initial Study (CEQA) Environmental Assessment/Finding of
12 No Significant Impact (FONSI) (NEPA)” which also did not discuss the casino. 4.
13 On September 6, 2007, RPCEC timely filed this mandamus action challenging
14 Caltrans’ processing and alleged approval of the project in violation of CEQA and
15 the federal defendants’ processing and approval of the project in violation of NEPA
16 and the Administrative Procedure Act (APA). The Complaint also alleges a cause
17 of action against Caltrans for violations of the Public Records Act.
18

19
20 5. In its Complaint, RPCEC claims that this Court has jurisdiction pursuant to
21 Sections 1331 and 1361 of Title 28 of the U.S. Code because the complaint alleges
22 violations of NEPA and the APA, both federal laws, and seeks to compel the
23 federal defendants to perform duties owed to RPCEC, its members, and other
24 members of the public. The Complaint also alleges that this Court has jurisdiction
25 pursuant to Section 701 et seq. of Title 5 of the U.S. Code, because the pleading
26
27
28

1 seeks judicial review of the action taken by one or more agencies of the United
2 States. Further, the Complaint states that this Court has jurisdiction pursuant to
3 Section 2201 of Title 28 of the U.S. Code, because RPCEC seeks declaratory relief
4 against the federal defendants. The Complaint also alleges supplemental/pendent
5 jurisdiction over the state CEQA and PRA claims which are inextricably joined with
6 the federal NEPA claim.
7

8
9 6. RPCEC requests a peremptory writ of mandate Caltrans and the federal
10 defendants to set aside and void their joint approvals to reconsider the project
11 based on an EIS/EIR that takes into account casino traffic in compliance with
12 NEPA, the APA, CEQA, and all other applicable laws.
13

14 7. The federal defendants filed an Answer on November 14, 2007. Caltrans'
15 has not filed an answer, but filed the subject motion to dismiss six months after the
16 complaint was filed.

17 8. According to the Neg Dec/FONSI, page 1, the total \$47.8 million cost of
18 the interchange project is to be funded by the federal Regional Transportation
19 Improvement Program.
20

21 I declare under penalty of perjury under the laws of the State of California
22 that the foregoing is true and correct, based on my own personal knowledge, and
23 that I am competent to and if called as a witness would so testify. This declaration
24 was executed this 13th day of May 2008, at Santa Rosa, California.
25

26 _____s/
27 Rose M. Zoia
28

Declaration in Support of
Opposition to Motion to Dismiss